

INSMED INC  
Form 10-K/A  
March 09, 2006

**UNITED STATES**  
**SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

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**FORM 10-K/A**

**Amendment No. 1**

(Mark One)

ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the fiscal year ended December 31, 2005

OR

TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934  
For the transition period from \_\_\_\_\_ to \_\_\_\_\_

Commission File Number 0-30739

**INSMED INCORPORATED**

(Exact name of registrant as specified in its charter)

Virginia  
(State or other Jurisdiction of incorporation or organization)

54-1972729  
(I.R.S. employer identification no.)

4851 Lake Brook Drive

Glen Allen, Virginia 23060  
(Address of principal executive offices)

(804) 565-3000  
(Registrant's telephone number)

(zip code)

including area code)

Securities registered pursuant to Section 12(b) of the Act:

Title of each class

Name of each exchange on

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**None** which registered  
**None**  
**Securities registered pursuant to Section 12(g) of the Act:**

(Title of class)

**Common Stock**

**Preferred Stock Purchase Rights**

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes [  ] No [  ]

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. Yes [  ] No [  ]

Indicate by check mark whether the Registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes [  ] No [  ]

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K. [  ]

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, or a non-accelerated filer (as defined in Exchange Act Rule 12b-2). Large accelerated filer [  ] Accelerated filer [  ] Non-accelerated filer [  ]

The aggregate market value of the voting and non-voting common equity held by non-affiliates of the registrant on June 30, 2005 was **\$44,188,816** (based on the closing price for shares of the registrant's Common Stock as reported on the Nasdaq National Market on that date). In determining this figure, the registrant has assumed that all of its directors, officers and persons owning 10% or more of the outstanding Common Stock are affiliates. This assumption shall not be deemed conclusive for any other purpose.

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes [  ] No [  ]

As of February 28, 2006, there were **77,150,700** shares of the registrant's common stock, \$.01 par value, outstanding.

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Portions of the registrant's definitive Proxy Statement to be filed with the Securities and Exchange Commission no later than 120 days after the registrant's fiscal year ended December 31, 2005, and to be delivered to shareholders in connection with the 2006 Annual Meeting of Shareholders, are incorporated in Part III by reference.

**Explanatory Note**

This Amendment to the Annual Report on Form 10-K for the fiscal year ended December 31, 2005 is filed solely to amend the Exhibit List and add Exhibit 21.1.

**SIGNATURES**

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized in the City of Richmond, Commonwealth of Virginia, on the 9<sup>th</sup> day of March, 2006.

INSMED INCORPORATED

a Virginia corporation

(Registrant)

By: */s/* GEOFFREY ALLAN  
**Geoffrey Allan, Ph.D.**

*Chairman of the Board, President and Chief*

*Executive Officer (Principal Executive Officer)*

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of the Registrant and in the capacities indicated on the 9<sup>th</sup> day of March, 2006.

<b>Signature</b>	<b>Title</b>
<i>/s/</i> GEOFFREY ALLAN <b>Geoffrey Allan, Ph.D.</b>	Chairman of the Board, President and Chief Executive Officer (Principal Executive Officer)
<i>/s/</i> KEVIN P. TULLY <b>Kevin P. Tully</b>	EVP, Chief Financial Officer
<i>/s/</i> KENNETH G. CONDON <b>Kenneth G. Condon</b>	Director
<i>/s/</i> GRAHAM K. CROOKE <b>Graham K. Crooke, MB.BS</b>	Director
<i>/s/</i> STEINAR J. ENGELSEN <b>Steinar J. Engelsen, M.D.</b>	Director
<i>/s/</i> MELVIN SHAROKY <b>Melvin Sharoky, M.D.</b>	Director
<i>/s/</i> RANDALL W. WHITCOMB <b>Randall W. Whitcomb, M.D.</b>	Director

**EXHIBIT INDEX**

<b>Exhibit Number</b>	<b>Exhibit Title</b>
3.1	Articles of Incorporation of Insmmed Incorporated, as amended (previously filed as Annex H to the Joint Proxy Statement/Prospectus contained in Part I of Insmmed Incorporated's Registration Statement on Form S-4 (Registration No. 333-30098) and incorporated herein by reference).
3.2	Amended and Restated Bylaws of Insmmed Incorporated (previously filed as Annex I to the Joint Proxy Statement/Prospectus contained in Part I of Insmmed Incorporated's Registration Statement on Form S-4 (Registration No. 333-30098) and incorporated herein by reference).
3.3	Form of Articles of Amendment to Insmmed Incorporated's Articles of Incorporation, as amended, creating a new series of Preferred Stock designated as Series A Junior Participating Preferred Stock (previously filed as Exhibit A to the Rights Agreement, dated as of May 16, 2001, between Insmmed Incorporated and First Union National Bank, as Rights Agent, filed as Exhibit 4.4 to Insmmed Incorporated's Registration Statement on Form 8-A filed with the Securities and Exchange Commission on May, 17, 2001 and incorporated herein by reference).
3.4	Amendment for Reverse Split (previously filed as Exhibit 3.4 to Insmmed Incorporated's Annual Report on Form 10-K for the year ended December 31, 2003 and incorporated herein by reference).
4.1	Description of Capital Stock (contained in the Articles of Incorporation filed as Exhibit 3.1).
4.2	Specimen stock certificate representing common stock, \$.01 par value per share, of the Registrant (previously filed as Exhibit 4.2 to Insmmed Incorporated's Registration Statement on Form S-4 (Registration No. 333-30098) and incorporated herein by reference).
4.3	Article VI of the Articles of Incorporation of Insmmed Incorporated (previously filed as Exhibit 4.1 to Insmmed Incorporated's Registration Statement on Form S-4 (Registration No. 333-30098) and incorporated herein by reference).
4.4	Rights Agreement, dated as of May 16, 2001, between Insmmed Incorporated and First Union National Bank, as Rights Agent (which includes as (i) Exhibit A the form of Articles of Amendment to Insmmed Incorporated's Articles of Incorporation, as amended, (ii) Exhibit B the form of Rights Certificate, and (iii) Exhibit C the Summary of the Rights to Purchase Preferred Stock) (previously filed as Exhibit 4.4 to Insmmed Incorporated's Registration Statement on Form 8-A filed with the Securities and Exchange Commission on May 17, 2001 and incorporated herein by reference).
4.5	Form of Rights Certificate (previously filed as Exhibit B to the Rights Agreement, dated as of May 16, 2001, between Insmmed Incorporated and First Union National Bank, as Rights Agent, filed as Exhibit 4.4 to Insmmed Incorporated's Registration Statement on Form 8-A filed with the Securities and Exchange Commission on May 17, 2001 and incorporated herein by reference).
4.6	Form of Stock and Warrant Purchase Agreement by and between Insmmed Incorporated and each of the investors in the July 2003 private placement of common stock and warrants to purchase common stock (previously filed as Exhibit 4.6 to Insmmed Incorporated's Registration Statement on Form S-3 (Registration No. 333-107308) on July 24, 2003 and incorporated herein by reference).
4.7	Form of Warrant issued by Insmmed Incorporated to each of the investors in July 2003 private placement of common stock and warrants to purchase common stock (previously filed as Exhibit 4.7 to Insmmed Incorporated's Registration Statement on Form S-3 (Registration No. 333-107308) on July 24, 2003 and incorporated herein by reference).
4.8	Form of Stock and Warrant Purchase Agreement by and between Insmmed Incorporated and each of the investors in the November 2004 private placement of common stock and warrants to purchase common stock (previously filed as Exhibit 10.1 to Insmmed Incorporated's Current Report on Form 8-K on November 10, 2004 and incorporated herein by reference).

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<b>Exhibit Number</b>	<b>Exhibit Title</b>
4.9	Form of Warrant issued by Insmmed Incorporated to each of the investors in November 2004 private placement of common stock and warrants to purchase common stock (previously filed as Exhibit B to the Form of Stock and Warrant Purchase Agreement by and between Insmmed Incorporated and each of the investors previously filed as Exhibit 10.1 to Insmmed Incorporated's Current Report on Form 8-K on November 10, 2004 and incorporated herein by reference).
4.10	Form of Purchase Agreement dated March 15, 2005 between Insmmed Incorporated and each of the investors in the March 2005 private placement of notes and warrants to purchase common stock (previously filed as Exhibit 4.1 to Insmmed Incorporated's Current Report on Form 8-K on March 16, 2005 and incorporated herein by reference).
4.11	Form of 5.5% Note Due 2008-2010 dated March 15, 2005 between Insmmed Incorporated and each of the investors in the March 2005 private placement of notes and warrants to purchase common stock (previously filed as Exhibit 4.2 to Insmmed Incorporated's Current Report on Form 8-K on March 16, 2005 and incorporated herein by reference).
4.12	Form of Warrant dated March 15, 2005 between Insmmed Incorporated and each of the investors in the March 2005 private placement of notes and warrants to purchase common stock (previously filed as Exhibit 4.3 to Insmmed Incorporated's Current Report on Form 8-K on March 16, 2005 and incorporated herein by reference).
4.13	Form of Registration Rights Agreement dated March 15, 2005 between Insmmed Incorporated and each of the investors in the March 2005 private placement of notes and warrants to purchase common stock (previously filed as Exhibit 4.4 to Insmmed Incorporated's Current Report on Form 8-K on March 16, 2005 and incorporated herein by reference).
4.14	Amendment No. 1 to Rights Agreement dated March 15, 2005 between Insmmed Incorporated and Wachovia Bank, N.A. (f/k/a First Union National Bank) (previously filed as Exhibit 4.5 to Insmmed Incorporated's Current Report on Form 8-K on March 16, 2005 and incorporated herein by reference).
10.1	Insmmed Incorporated 2000 Stock Purchase Plan (previously filed as Exhibit 10.1 to Insmmed Incorporated's Registration Statement on Form S-4 (Registration No. 333-30098) as amended by the Amendment filed as Exhibit B to Insmmed Incorporated's Definitive Proxy Statement filed May 10, 2005, each of which is incorporated herein by reference).
10.2	Insmmed Incorporated 2000 Stock Incentive Plan (previously filed as Exhibit A to Insmmed Incorporated's Definitive Proxy Statement filed on May 10, 2005 and incorporated herein by reference).
10.3	Amended and Restated License Agreement between Insmmed Pharmaceuticals, Inc. and the University of Virginia Patent Foundation (previously filed as Exhibit 10.3 to Insmmed Incorporated's Registration Statement on Form S-4 (Registration No. 333-30098) and incorporated herein by reference).
10.4+	Subscription, Joint Development and Operating Agreement by and among Celtrix Pharmaceuticals, Inc., Elan Corporation, plc, Elan International Services, Ltd., and Celtrix Newco Ltd. dated as of April 21, 1999 (previously filed as Exhibit 10.8 to Insmmed Incorporated's Registration Statement on Form S-4 (Registration No. 333-30098) and incorporated herein by reference).
10.5+	License Agreement by and between Celtrix Newco Ltd. and Celtrix Pharmaceuticals, Inc. dated as of April 21, 1999 (previously filed as Exhibit 10.9 to Insmmed Incorporated's Registration Statement on Form S-4 (Registration No. 333-30098) and incorporated herein by reference).
10.6+	License Agreement by and between Celtrix Newco Ltd. and Elan Pharmaceutical Technologies, a division of Elan Corporation, plc, dated as of April 21, 1999 (previously filed as Exhibit 10.10 to Insmmed Incorporated's Registration Statement on Form S-4 (Registration No. 333-30098) and incorporated herein by reference).

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<b>Exhibit Number</b>	<b>Exhibit Title</b>
10.7	License Agreement, dated as of April 1, 1993, between Genentech, Inc. and Celtrix Pharmaceuticals, Inc. (previously filed as Exhibit 10.11 to Insmmed Incorporated's Registration Statement on Form S-4 (Registration No. 333-30098) and incorporated herein by reference).
10.8	Purchase Agreement among Insmmed, Inc., Insmmed Pharmaceuticals, Inc. and certain investors named therein dated January 13, 2000 (previously filed as Exhibit 10.12 to Insmmed Incorporated's Registration Statement on Form S-4 (Registration No. 333-30098) and incorporated herein by reference).
10.9	Form of Warrant of Insmmed to be issued pursuant to Purchase Agreement among Insmmed Incorporated, Insmmed Pharmaceuticals, Inc. and certain investors dated January 13, 2000 (previously filed as Exhibit 10.13 to Insmmed Incorporated's Registration Statement on Form S-4 (Registration No. 333-30098) and incorporated herein by reference).
10.10	Form of Registration Rights Agreement among Insmmed Incorporated, Insmmed Pharmaceuticals, Inc. and certain investors party to the Purchase Agreement among Insmmed Incorporated, Insmmed Pharmaceuticals, Inc. and certain investors dated January 13, 2000 (previously filed as Exhibit 10.14 to Insmmed Incorporated's Registration Statement on Form S-4 (Registration No. 333-30098) and incorporated herein by reference).
10.11	Sublease, dated March 30, 2001, between Rhodia Inc. and Insmmed Incorporated (previously filed as Exhibit 10.15 to Insmmed Incorporated's Quarterly Report on Form 10-Q for the quarter ended March 31, 2001 and incorporated herein by reference).
10.12	Consent to Sublease, dated as of April 12, 2001, among A & W Virginia Corporation, as Landlord, Rhodia Inc., as Tenant, and Insmmed Incorporated, as Subtenant (previously filed as Exhibit 10.16 to Insmmed Incorporated's Quarterly Report on Form 10-Q for the quarter ended March 31, 2001 and incorporated herein by reference).
10.13+	License and Supply Agreement, dated as of August 28, 2003, between Insmmed Incorporated and Pharmacia AB (previously filed as Exhibit 10.16 to Insmmed Incorporated's Annual Report of Form 10-K for the year ended December 31, 2003 and incorporated herein by reference).
10.14	Agreement, dated as of March 3, 2004, between Insmmed Incorporated and Geoffrey Allan, Ph.D. (previously filed as Exhibit 10.17 to the Insmmed Incorporated's Annual Report on Form 10-K for the year ended December 31, 2003 and incorporated herein by reference).
10.15*	License Agreement, dated as of January 19, 2004, between Insmmed Incorporated and Fujisawa Pharmaceutical Co., Ltd. (previously filed as Exhibit 10.18 to the Insmmed Incorporated's Annual Report on Form 10-K for the year ended December 31, 2003 and incorporated herein by reference).
10.16	Form of Change of Control Agreement entered into between Insmmed Incorporated and certain of its executive officers (previously filed as Exhibit 10.19 to Insmmed Incorporated's Annual Report on Form 10-K for the year ended December 31, 2004 and incorporated herein by reference).
10.17	Form of Executive Stock Option Grant (previously filed as Exhibit 10.1 to Insmmed Incorporated's Annual Report on Form 10-K for the year ended December 31, 2004 and incorporated herein by reference).
10.18**	Lease between 2545 Central, LLC and Insmmed Incorporated made December 14, 2005.
10.19	Lease Agreement dated as of March 25, 2004 between Insmmed Incorporated as Tenant and 2545 Central, LLC as Landlord, for a building located at 2590 Central Avenue Boulder, CO 80301 (previously filed as Exhibit 10.1 to Insmmed Incorporated's Quarterly Report on Form 10-Q for the quarter ended March 31, 2004 and incorporated herein by reference).

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<b>Exhibit Number</b>	<b>Exhibit Title</b>
21.1	Subsidiaries of Insmmed Incorporated.
23.1**	Consent of Ernst & Young LLP.
31.1	Certification of Geoffrey Allan, Ph.D., Chairman of the Board and Chief Executive Officer of Insmmed Incorporated, pursuant to Rules 13a-14(a) and 15d-14(a) promulgated under the Securities Exchange Act of 1934, as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2003.
31.2	Certification of Kevin P. Tully, Executive Vice President and Chief Financial Officer (Principal Financial and Accounting Officer) of Insmmed Incorporated, pursuant to Rules 13a-14(a) and 15d-14(a) promulgated under the Securities Exchange Act of 1934, as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2003.
32.1	Certification of Geoffrey Allan, Ph.D., Chairman of the Board and Chief Executive Officer of Insmmed Incorporated, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2003.
32.2	Certification of Kevin P. Tully, Executive Vice President and Chief Financial Officer (Principal Financial and Accounting Officer) of Insmmed Incorporated, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2003.

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- + The Securities and Exchange Commission has granted confidential treatment with respect to certain information in these exhibits. The confidential portions of these exhibits have been omitted and filed separately with the Securities and Exchange Commission.
- \* Confidential treatment has been requested for certain portions of this exhibit. The confidential portions of this exhibit have been omitted and filed separately with the Securities and Exchange Commission.
- \*\* Previously filed as Exhibit to Insmmed Incorporated's Annual Report of Form 10-K for the year ended December 31, 2005 and incorporated herein by reference.